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FREEMAN *v.* COMMONWEALTH.

June 29, 1921.

[107 S. E. 707.]

1. Homicide (§ 253 (1)*)—Evidence Held to Sustain Conviction of Murder in the First Degree.—Evidence held to sustain conviction of murder in the first degree.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 152.]

2. Criminal Law (§ 939 (1)*)—Evidence of Number of Wounds Inflicted Not Ground for New Trial.—In a prosecution for murder by shooting with a pistol, evidence as to the number of wounds inflicted or shots fired into the body of the deceased could not have been "after-discovered" evidence as to which any diligence was employed in discovering.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 448.]

3. Criminal Law (§ 687 (1)*)—Opening Case for Further Evidence by Commonwealth Held Not Abuse of Discretion.—Where in a prosecution for homicide, after the evidence was all in, the case was adjourned to the next day for argument, the court did not abuse its discretion in permitting the commonwealth on the next morning to introduce further evidence as to the number and location of the wounds on the person of deceased.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 321.]

Error to Circuit Court, Wise County.

Floyd Freeman was convicted of murder in the first degree, and brings error. Affirmed.

D. F. Kennedy, of Youngstown, Ohio, for plaintiff in error.

John R. Saunders, *Atty. Gen.*, and *J. D. Hank, Jr.*, and *Leon M. Bazile*, *Asst. Attys. Gen.*, for the Commonwealth.

COCHRAN *et al.* *v.* HIDDEN *et al.*

June 16, 1921.

[107 S. E. 708.]

1. Tenancy in Common (§ 15 (5)*)—Possession of Grantee under Deed from Co-Owner of Life Estate Conveying Title in Fee Simple Adverse to Title of Other Co-Owners.—Where a grantor conveyed land to his son-in-law, in trust for the use of himself and wife during their lives, and of the survivor and their children during the life of the survivor, title in fee simple to pass to the heirs at law of the wife upon the death of such survivor, and after the death of the son-in-law his wife conveyed the land to another in fee simple,

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.